

MEMORIAL

OF

NATHAN CUMMINGS AND OTHERS,

Citizens of the United States, and owners of lands within the former limits of the State of Maine, which were given up, by the treaty of Washington, to Great Britain, praying the adoption of some mode of relief to indemnify them against loss.

MARCH 22, 1848.

Referred to the Committee on Finance, and ordered to be printed.

To the honorable the Senate and House of Representatives of the United States in Congress assembled :

The memorial of Nathan Cummings, of Portland, in the State of Maine, on behalf of himself and the following named persons and corporations, viz: Asa Clapp, Eben Steel, Peoples' Bank, Hezekiah Winslow, Charles Jones, Exchange Bank, Phinehas Varnum, Horace Porter, Samuel Whittier, John H. Counce, Amos H. Hodgeman, Eunice Day, Henry Goddard, Manufacturers & Traders' Bank, Canal Bank, Joseph Adams, Jeremiah Dow, John Dow, Maine Bank, John Rand, Trustees of the Bank of Portland, Thomas A. Deblois, Casco Bank, Alpheus Shaw, Josiah S. Little, heirs of John White, Samuel Fessenden, administrator, William W. Thomas, Benjamin Underwood, George French, Jeremiah Bailey, Samuel Porter, all of the State of Maine; G. W. Coffin, Philip Greely, jr., H. S. Chase, James McGregor, M. P. Sawyer, C. Bradley, John Bradley, Benjamin Willis, William Whitney, William Forbes, Hugh R. Kendall, William Sturgis, Susanna Capen, Phinehas Parker, all of the Commonwealth of Massachusetts; Frederick A. Cobb, Joseph Dunn, William C. Langley, of the State of New York; Charles S. Bradley, of Rhode Island, and United States Bank, Pennsylvania—

RESPECTFULLY REPRESENTS :

That pending the controversy between Great Britain and the United States, in relation to the northeastern boundary of Maine, Alexander Fraser, late of Lower Canada, in consideration of sixty thousand dollars paid by Stephen Cummings, of Maine, bonded to him two-thirds of the seigniory of lake Temiscouata and river Madawaska, containing two hundred and thirty-six thousand acres, subject to a contract of sale of all the timber standing thereon to Henry John Caldwell, of said province; which the said Henry John Caldwell, in consideration of seventy thousand dollars, assigned to said Stephen Cummings.

That one of the conditions of the bond obliged the said Alexander Fraser to permit this portion of said seigniority to be surrendered in his own name to the Crown, and a fresh grant received therefrom to Stephen Cummings, for the purpose of relieving the same from the feudal burdens incident to the seigniorial tenure.

That subsequently Stephen Cummings became insolvent, and assigned his interest in said bond to Nathan Cummings, in trust for his creditors, through whom a change of title was effected as assignee, and who, on payment to the Crown of the commutation fine, amounting to five thousand dollars, (which the creditors advanced,) received, under letters patent, a grant in free and common soccage; and thereupon conveyed the same to your memorialists, the creditors aforesaid, in payment of their respective claims against him, at two dollars an acre.

That your memorialists purchased these lands in full faith that they were American soil; and while they generally entertained the belief that on the settlement of the question of boundary between the two governments, they would fall within the United States, no one doubted that in the event they should be ceded to Great Britain, the rights of individuals would be regarded and provided for.

That, however, without looking to final results, your memorialists were obliged, in order to render their lands available, to have recourse to the authorities of Canada for a change of tenure, without which they were liable to be interrupted in their lumber operations, and to pay to the Crown, on every mutation or conveyance of the whole or of part of these lands, one-fifth of the purchase money.

That these lands are esteemed of great value, for which, as appears from what has already been stated, large sums of money were paid; that they constitute a part of the disputed territory which was ceded by the treaty of Washington to Great Britain; and that they, together with the other part of said seigniority, are presumed to be the only portion of territory included in the cession, which is owned by citizens of the United States residing *out* of the British dominions.

That your memorialists, having good reason to doubt whether by law in Lower Canada, aliens, although they may take lands by purchase, which may pass *inter vivos* by proper conveyance, can transmit them by descent, and considering the peculiar circumstances under which they stood, as residing in a foreign State, and their particular case having been omitted in the language of the treaty of Washington, though probably within its purview, were induced to seek at the hands of the British government one of two remedies to the inconvenience, embarrassments, and uncertainty arising out of their position as alien proprietors of these lands.

That in accordance with these views they memorialized that government, and tendered a conveyance, on reasonable terms, of their interest in said lands, on the supposition that the government might be willing, for public and general purposes, to control the same, and prayed that, in the event of the government having no wish so to do, their title might be confirmed to them in fee.

That in this attempt to obtain partial redress they utterly failed, the decision of the government having been, for reasons stated in the papers annexed, adverse to the prayer of their petition.

That the grievances of which your memorialists complain do not end

with those hereinbefore considered, as is shown by the following facts, viz: the produce of the seignior in timber and lumber intended for a market out of the British provinces, (within which the consumption of these articles is very inconsiderable compared with the supply,) must of necessity pass therefrom by the river St. John. In eighteen hundred and forty-three an act passed the Provincial Parliament of New Brunswick, imposing an export duty on all timber and lumber shipped from the province. This duty being, as the preamble of the act declares, only a *new* mode of collecting "stumpage," or what the government of the province requires to be paid for permission to cut timber on the Crown lands, operates, in respect to your memorialists, with great injustice and inequality, inasmuch as it subjects them to pay into the treasury of the province "stumpage" of all timber cut on their own lands.

That this exaction, onerous as it is found to be to your memorialists, is light compared with the duty which their own government obliges them to pay on the introduction of the produce of these lands into the United States.

Wherefore your memorialists, relying on the liberality and justice of Congress, humbly pray that Congress would be pleased to grant them relief in some mode, either by an appropriation for their benefit adequate to a full indemnity against the losses and injuries they have sustained, as set forth, or, in the event that this form of reparation should be deemed inexpedient, that Congress would allow the produce of these lands to be introduced into the United States free of duty, and thereby placed on an equal footing, in this respect, with the produce of lands within the United States which are watered by the river St. John and its tributaries; and likewise interpose in their behalf to procure a repeal or an exemption of the produce of these lands from the consequences of the export duty act referred to, which, in the opinion of your memorialists, is in contravention to the treaty of Washington.

Approved March 9, 1848.

A true copy.

EPAPHRODITE

GEO. W. PRICK

Secretary

with these provisions, and that it is shown by the following facts
that the produce of the said lands is not intended for a
market, but for the British provinces, and that the consumption of these
articles is very considerable compared with the supply (and of course
city built thereon by the River St. John. In sixteen hundred and
forty-three an act passed the Provincial Parliament of New Brunswick
imposing an export duty on all timber and lumber shipped from the pro-
vince. This duty being as the produce of the province of the province
mode of collecting "straggled" or what the government of the province
refuses to be paid for permission to cut timber on the Government and
taxes in respect to your memorialists with great injustice and inequality,
inasmuch as it subjects them to pay into the treasury of the province
"straggled" of all timber cut on their own lands.
That this export duty, as it is found to be to your memorialists
is right compared with the duty which their own government subjects
them to pay on the introduction of the produce of these lands into the
United States.
Whereas your memorialists, relying on the liberality and justice of
Congress, humbly pray that Congress would be pleased to grant them
relief in some mode, either by an appropriation for their present redemption
to a full indemnity against the taxes and duties they have sustained, or
set aside in the event that this form of redemption should be deemed
inexpedient, that Congress would allow the redemption of these lands to be
immediately into the United States free of duty, and thereby placed on an
equal footing in this respect with the produce of lands within the United
States which are watered by the River St. John and its tributaries; and
likewise request in their behalf to present an examination of
the produce of these lands from the representatives of the export duty not
related to which, in the opinion of your memorialists, is in contravention
to the treaty of Washington.